IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1639 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/10/2004 in WPMP No. 13693 of 2004 in WP No. 10778 OF 2004 on the file of the High Court.)

Between:

M/s. Swarna Tollyway Pvt Ltd., rep by Director Plot No. 85, Road No. 72, Prashasan Nagar,
Jubilee Hills Hyderabad.

..... APPELLANT

AND

1. P. Koteswara Rao S/o Narsimha Rao
R/o Raitopet, Behind Petrol Pump, Nandigama Krishna District.
2. The Government of India, Ministry of Road, Transport and National Highway Dept., rep by Secretary, New Delhi.
3. The National Highway Authority of India rep by Chairman, New Delhi.
4. The Director General (Road Development) & Special Secretary Ministry of road Transport and National Highway Dept., New Delhi.

.....RESPONDENTS.

Counsel for the Appellant: Mr.M.S.SRINIVASA IYENGAR

Counsel for the Respondent No.1: Mr.K.Ramakanth Reddy

Counsel for Respondent No.2: Mr. S.S.Varma

Counsel for Respondents 3 & 4: Mr.A.Rajasekhar Reddy

S.C. for Central Government.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Appeal is filed by the fourth respondent in the Writ Petition against the interim order. Writ Petition was admitted on 13.7.2004 and the respondents were asked to file their counters. When counter-affidavits were not filed, interim order was passed by the learned Single Judge in the miscellaneous application filed by the petitioner directing the 4th respondent-appellant herein to collect lesser amounts towards toll fees than what is mentioned in the notification, which is under challenge in the Writ Petition.

Learned counsel for the appellant now wants to argue before us the points not urged before the learned Single Judge and in the absence of any counter affidavit, it will not be possible for us to appreciate the points. Accordingly, we allow the appeal to the extent of holding that the order be treated as only interim order, and, on the appellant filing affidavit in reply in the Writ Petition and application for vacation, learned Single Judge shall reconsider the matter in the light of the plea taken by the appellant in the counter affidavit and pass appropriate orders in accordance with law. Learned counsel for the appellant states that he will file counter-affidavit within a week, and, in case, that is done, the matter will be taken up by the learned Single Judge on 10.11.2004. No costs.

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DEVINDER GUPTA, C.J.

26.10.2004. _____

C.V.RAMULU, J.

VR.

To

1. The Secretary to Government of India, Ministry of Road, Transport and National Highway Department, New Delhi.
2. The Chairman, National Highway Authority of India, New Delhi.
3. The Director General (Road Development) & Special Secretary Ministry of road Transport and National Highway Dept., New Delhi.

4. Two CD copies.